

The Genesis of Institutes of Scientific and Forensic Examination in Kharkiv, Kyiv and Odesa in 1922–1929: Historical and Legal Aspect

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DOI: [10.32353/khrife.1.2023.06](https://doi.org/10.32353/khrife.1.2023.06) UDC 347.77–343(98)

Submitted: 10.03.2023 / Reviewed: 13.03.2023 / Approved for Print: 14.03.2023 /
Available online: 31.03.2023



The genesis of forensic examination in Ukraine on the eve of the First World War and its further institutionalization in the 1920s are considered. The prerequisites for the establishment of scientific forensic examination offices in Kyiv, Odesa, and Kharkiv at the initiative of, in particular, the legendary forensic physician and forensic scientist Mykola Bokarius are studied. The normative legal acts on the organization and conduct of forensic work, the legal status of the institutes of scientific and forensic examination of the People's Commissariat of Justice of the Ukrainian SSR, their tasks, structure, and formation procedure were analyzed. The determining role in the genesis of forensic examination in Ukraine in the 1920s of domestic forensic scientists M. Bokarius, M. Makarenko, S. Potapov, V. Favorskyi and others, who not only laid the foundations of various types of forensic examination to meet the needs of courts, is substantiated and pre-trial investigation bodies but also formed the scientific-methodological and methodical foundations of forensic expert activity in Ukraine. It has been proven that already in the 1920s, domestic schools of forensic examination were formed in Ukraine (in particular, the Kharkiv school of M. Bokarius); a community of highly professional forensic

This article is translation of the original Ukrainian content, which source is available at the link: <https://khrife-journal.org/index.php/journal> (translated by Tetiana Droshchenko). The authors acknowledge translation as corresponding to the original.

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experts was formed and a high-quality system of their training was developed; new types of forensic examinations were introduced and the methods of their conduct were scientifically substantiated; the publication of fundamental scientific works on the issues of forensic examination and criminology is organized; In Kharkiv, a specialized and authoritative journal “Archives of Criminology and Forensic Sciences” was launched. The research uses general scientific methods: analysis, synthesis, analogy, systematization and generalization.

Keywords: forensic examination; genesis of forensic examination in Ukraine; office of scientific and forensic examination; institute of scientific and forensic examination, institute of scientific; Kharkiv Institute of Forensic Science, Mykola Bokarius.

Research Problem Formulation

The large-scale military aggression of the Russian Federation, which has been ongoing in Ukraine for more than a year, poses serious and difficult tasks to the Ukrainian scientific and research institutions of forensic examinations (hereinafter referred to as *SRIFE*) of the Ministry of Justice. Their content consists, *first*, in the formation of an appropriate evidence base for national and international courts to hold the Russian Federation accountable for war crimes committed since February 24, 2022, in Ukraine ¹, and also, *secondly*, in determining the losses and damage caused by the aggressor to our state, territorial communities, natural and legal entities. At the same time, these main tasks and functions of forensic expert activity require proper scientific and methodical justification.

In parallel with the applied scientific research works systematically carried out at the *SRIFE* of the Ministry of Justice with the aim of developing and introducing new methods and methodical recommendations into forensic expert practice, scientists in the field of forensic examination also address questions of the theory and

history of forensic examination in Ukraine. Currently, an important task for Ukrainian experts-scientists is a critical rethinking of the genesis of forensic examination in Ukraine at the beginning of the 20th century and its objective achievements during its stay, first as part of the Russian Empire, and from 2022 - as part of the former USSR.

The Russian Federation's appropriation of the Ukrainian history of state formation and law-making led, starting from the second half of the 20th century to the spread of false narratives about the inferiority and secondary nature of Ukrainian science, technology, and art. Important achievements of Ukraine in the establishment and development of forensic examination were unreasonably silenced by the authorities at the time, replaced by the thesis of the whimsical “Soviet school of forensic examination”.

After the declaration of Ukraine's independence, this led to a cycle of scientific research on the establishment of Ukrainian scientific and expert institutions at the beginning of the 20th century in Kyiv, Odesa, and Kharkiv. In the year when National Scientific Center «Hon. Prof. M. S. Bokarius Forensic Science

1 Fedorenko V., Fedorenko M. Russia's Military Invasion of Ukraine in 2022: Aim, Reasons, and Implications. *Krytyka Prawa. Niezależne Studia nad Prawem*. 2022. Vol. 14. Is. 1. Pp. 38–39. DOI: 10.7206/kp.2080-1084.506 (date accessed: 06.03.2023).

Institute» (hereinafter referred to as NSC «Hon. Prof. M. S. Bokarius FSI») is celebrating its 100th anniversary, this research aims to form the conceptual foundations of the genesis of this and other forensic institutions of Ukraine in 1920th.

Analysis of Recent Researches and Publications

The issue of the genesis of forensic expert activity and the establishment and development of scientific research institutions of forensic examination in Ukraine remains one of the traditional ones for Ukrainian jurisprudence. They were actively studied by such Ukrainian scientists as V. Hon-

charenko; A. Ishchenko, V. Koloniuk and V. Yusupov ²; V. Komakha ³; Yu. Kravchenko, V. Lisovyi, V. Olkhovskyi and V. V. Miasoiedov ⁴; E. B. Simakova – Yefremian with co-authors ⁵; Yu. Foris with co-authors ⁶ and others, as well as authors of this research paper — in Ukraine ⁷ and Poland ⁸.

Important sources for the study of M. Bokarius's contribution to the genesis of institutes of scientific and forensic examination in Ukraine are also the results of historical and biographical investigations of scientists of the NSC «Hon. Prof. M. S. Bokarius FSI», embodied in a number of reference and presentation publications that popularize the scientific heritage of honored professor M. Bokarius ⁹.

- 2 Іщенко А. В., Колонюк В. П., Юсупов В. В. 105 років наукової діяльності Київського науково-дослідного інституту судових експертиз. *Криміналістика і судова експертиза* : міжвідом. наук.-метод. зб., присвяч. 105-річ. засн. судов. експерт. в Україні. 2018. Вип. 63. Ч. 1. С. 9—20. URL: [http://nbuv.gov.ua/UJRN/krise_2018_63\(1\)_4](http://nbuv.gov.ua/UJRN/krise_2018_63(1)_4) (date accessed: 06.03.2023).
- 3 Комаха В. О. Становлення і розвиток судової експертизи та судово-експертних установ на Півдні України: за матеріалами перших двох етапів становлення і розвитку Одеського НДІ судових експертиз 1914—1941 рр. Одеса, 2002. 512 с.
- 4 Лісовий В. М., Ольховський В. О., Кравченко Ю. М., М'ясоєдов В. В. Слово про Вчителя: до 150-річчя з Дня народження Заслуженого професора М. С. Бокаріуса. *Актуальні питання судової експертизи і криміналістики* : зб. мат-лів міжнар. наук.-практ. конф., присвяч. 150-річ. з дня народж. Засл. проф. М. С. Бокаріуса (Харків, 18—19.04.2019). Харків, 2019. С. 4—7. URL: <https://repo.knmu.edu.ua/bitstream/123456789/24187/1/1olxov.pdf> (date accessed: 06.03.2023).
- 5 Головченко Л. М., Лозовий А. І., Сімакова-Єфремян Е. Б. та ін. Основи судової експертизи: навчальний посібник для фахівців, які мають намір отримати або підтвердити кваліфікацію судового експерта. Харків, 2016. С. 11—24. URL: <https://expertize-journal.org.ua/attachments/article/924/ose.pdf> (date accessed: 06.03.2023).
- 6 Колонюк В. П., Форіс Ю. Б., Юдіна О. В., Виноградова В. С. Деякі аспекти діяльності співробітників Київського науково-дослідного інституту судових експертиз у різних політико-соціальних умовах (1913—2022 роки). *Криміналістика і судова експертиза*. 2022. Вип. 67. С. 688—694. DOI: [10.33994/kndise.2022.67.69](https://doi.org/10.33994/kndise.2022.67.69) (date accessed: 06.03.2023).
- 7 Федоренко В. Л., Коваленко В. В., Кравчук В. М. Генезис і розвиток судової експертизи в Україні: від Руської Правди — до військової агресії РФ. *Експерт: парадигми юридичних наук і державного управління*. 2022. № 3 (21). С. 23—50. DOI: [10.32689/2617-9660-2022-3\(21\)-12-22](https://doi.org/10.32689/2617-9660-2022-3(21)-12-22) (date accessed: 06.03.2023).
- 8 Wiczorek L. Przestępczość na Ukrainie na początku XXI wieku. Studium prawnokryminologiczne. Białystok, 2019. 473 s.
- 9 Пам'яті Заслуженого професора Миколи Сергійовича Бокаріуса — видатного судового медика, криміналіста, засновника Харківського науково-дослідного інституту судових експертиз [Буклет]. Харків, 2016. 8 с. ; Кабінет-музей видатного судового медика, криміналіста, засновника Харківського науково-дослідного інституту судових експертиз, Заслуженого професора Миколи Сергійовича Бокаріуса [Буклет]. Харків, 2016. 28 с.

At the same time, in scientific studies devoted to the initiation of forensic institutes in Ukraine, insufficient attention is paid to their formation during the Soviet era, during the implementation of the New Economic Policy (hereinafter referred to as *NEP*), before the beginning of mass collectivization in 1929 and the policy that followed it, which was detrimental to Ukraine Holodomor and Stalinist repressions. Although this historical period became the starting point for the institutionalization of forensic expert activity in Ukraine.

Article Purpose

It consists in the formation based on the generalization, analysis and systematization of the provisions of normative legal acts and scientific sources, the theoretical and methodological foundations of the establishment and development of forensic activity and institutes of scientific forensic examination in Ukraine in the 1920s.

Research Methods

In order to achieve the set method, general scientific research methods are applied: analysis, synthesis, analogy, systematization and generalization.

Main Content Presentation

As is well known, the history of forensic institutions in Ukraine dates back to the beginning of the 20th century. The Law “On the Establishment of Scientific Forensic Examination Offices in the Cities of Moscow, Kyiv and Odesa” of July 4, 1913¹⁰, approved by the State Council and the State

Duma of the Russian Empire, established the first state-specialized expert institutions in Ukraine: scientific and forensic examination offices (hereinafter referred to as *SFEO*) under prosecutors of the Kyiv and Odesa Chambers. These two offices worked continuously from the day of their foundation in early 1914 and throughout the First World War, and after the February Revolution of 1917, and during the times of the Ukrainian People’s Republic, the Hetmanate and the Directory, and after the Bolshevik expansion in Ukraine¹¹.

The dedicated work of Ukrainian criminologists in 1914–1922 was not hindered by the small number of staff of the *SFEO* and the lack of trained personnel, nor the absence of a regulatory and legal framework, nor the lack of proper scientific, methodological and methodical support — all this made it difficult, but did not stop the development the first forensic expert institutions of Ukraine.

The first years of the existence of the *SFEO* in Kyiv and Odesa (since 1923 and in Kharkiv) remain an important subject of thorough scientific investigations by expert scientists, primarily employees of the modern *SRIFE* of the Ministry of Justice of Ukraine. These studies analyzed the general trends of the genesis of Ukrainian forensic institutions, which became the cradle of not only practice but also, first of all, theories and methods of forensic examination for the whole of Ukraine.

Ceremonially opened on February 2 (15), 1914, the Kyiv *SFEO* first functioned with 8 people (S. Potapov, Head of the office; M. Tufanov, Head of the Criminal and Technical Department; V. Favorskyi, Head of the Photographic Department and

10 Об учреждении кабинетов научно-судебной экспертизы в городах Москве, Киеве и Одессе : Закон, одобренный Государственным Советом и Государственной Думой 4 (17) июля 1913 г. *Собрание узаконений и распоряжений правительства*. 1913. Отд. 1. № 158. Ст. 1441.

11 Федоренко В. Л., Коваленко В. В., Кравчук В. М. *Op. cit.* С. 39. DOI: 10.32689/2617-9660-2022-3(21)-12-22 (date accessed: 06.03.2023).

A. Sementsov, Assistant; three technical employees and a translator)¹², who in the first year of activity conducted more than 200 expert studies. The material base of the institution amounted to thousand gold rubles¹³.

In Odesa SFEO under the prosecutor of the Odesa Judicial Chamber, solemnly opened on February 15 (28), 1914, 4 employees (at the beginning of 1922 — 12) worked under the leadership of M. Makarenko, who *“showed himself to be an outstanding scientist, teacher, forensic expert, as well as a very talented manager”* [1]¹⁴ and headed his institution until 1938.

Achievements in the scientific field are evidenced by the reports of Ukrainian scientists-experts who participated in the Congress of Heads of Forensic Expert Institutions on July 19, 1915, in Petrograd, namely: S. Potapov — on the most important features of handwriting for comparative research; V. Favorskyi — on the method of reading the etched text using luminescence; M. Tufanov — on the peculiarities of the study of hair, blood stains and semen; M. Makarenko — on the most interesting cases, as well as about certain methods of forensic research in the Odesa SFEO; Ye. Yelchaninov — on the significance of the foreign mission of 1914 for the development of domestic expert work¹⁵. In

the same year, the world saw the first issue of the famous work by M. Bokarius *“Forensic Medicine Presented for Lawyers”* (1915)¹⁶.

After the First World War, forensic expert activity in Ukraine received a new push for development and further institutionalization, although the normative-legal, scientific-methodological, methodical, organizational and financial support of forensic examination in Ukraine in 1917–1922 can hardly be considered satisfactory (in particular, due to the eclecticism of contemporary politics and legislation — procedural and criminal)¹⁷.

The bodies of the Ukrainian state, and later the Bolshevik government and regional Soviet entities (the Galician Socialist Republic of Soviets, Donetsk-Kryvorizka Republic, etc.) failed to develop new procedural codes, so all this time in Ukraine they used the procedural legislation of the tsarist times. For example, Art. 8 of Decree No. 2 on Courts dated March 7, 1918, stated that judicial proceedings should be carried out according to the rules of the court statutes of the Russian Empire of 1864, since the Central Executive Committee of the Workers', Soldiers' and Cossacks' Deputies and the Soviet People's Committee have not abolished them to this day¹⁸.

12 Іщенко А. В., Колонюк В. П., Юсупов В. В. Оп. cit. С. 10. URL: [http://nbuv.gov.ua/UJRN/krise_2018_63\(1\)__4](http://nbuv.gov.ua/UJRN/krise_2018_63(1)__4) (date accessed: 06.03.2023).

13 Колонюк В. П., Форіс Ю. Б., Юдіна О. В., Виноградова В. С. Оп. cit. С. 689. DOI: 10.33994/kndise.2022.67.69 (date accessed: 06.03.2023).

14 Макаренко Н. П. Техника расследования преступлений: практическое руководство для судебных работников. Репр. изд. 1925 г. ; предисл.: А. И. Рипенко. Херсон, 2013. С. 1.

15 Іщенко А. В., Колонюк В. П., Юсупов В. В. Оп. cit. URL: [http://nbuv.gov.ua/UJRN/krise_2018_63\(1\)__4](http://nbuv.gov.ua/UJRN/krise_2018_63(1)__4) (date accessed: 06.03.2023).

16 Бокаріусъ Н. С. Судебная медицина въ изложеніи для юристовъ: опытъ изложения основъ судебной медицины для юристов съ присоединеніемъ необходимыхъ общихъ свѣдѣній изъ анатоміи, гистологіи, физиологіи, химіи, патологіи и другихъ медицинскихъ дисциплинъ. Т. I : О крови и сосудистой системѣ ея. О кожѣ. О скелетѣ человѣка. Харьковъ, 1915. VIII, X, 779 с. URL: <https://dspace.nlu.edu.ua/jspui/handle/123456789/5172> (date accessed: 06.03.2023).

17 Wiczorek L. Оп. cit. S. 22–24, 32–33.

18 Гринюк В. О. Суд радянської доби. Часопис Національного університету «Острозька академія». Серія «Право». 2012. № 2 (6). URL: <http://lj.oa.edu.ua/articles/2012/n2/12hvosrd.pdf> (date accessed: 06.03.2023).

However, as early as 07/23/1918, the People's Committee of Justice approved the order "On the Organization and Operation of Local People's Courts", normalizing the status of experts as participants in the judicial process with the permission of the courts to interrogate them on an equal basis with witnesses and warn of liability for false testimony (Art. 24). Therefore, the institute of "informed persons" started by the tsarist court statutes of 1864 continued to work in 1917–1921 and after the Bolshevik expansion and the accession of Ukraine to the Soviet Federation.

In 1918, a forensic medical examination was transferred to the sphere of management of the People's Commissariat for Health. In 1919–1920, M. Makarenko was confirmed as the Head of the Odesa SFEO, which in 1923 received the status of a regional office¹⁹. In the same year 1923, Professor M. Bokarius assumed the position of chief state forensic medical inspector of the Ukrainian SSR.

Since 1922, the legislation on the judiciary, legal proceedings, and forensic examination, as well as the organizational and legal status of forensic institutions have changed significantly in Ukraine. Adoption of the 1922 Regulation on the Judiciary of the USSR²⁰ and the Criminal Procedure Code of the USSR (hereinafter referred to as CPC)²¹ normalized the grounds for the creation of preliminary investigation bodies (People's investigators) and courts (Peo-

ple's judges), as well as such evidence as conclusions expert (Art. 62 of this CPC)²², which generally contributed to the establishment of forensic expert activity and its institutionalization.

At this time, forensic experts conduct examinations and clarify their conclusions in courts and investigative bodies. For example, Clause 4 of the Instructions on the Procedure for Remuneration of Witnesses and Other Persons Summoned to Courts and Investigative Bodies in Criminal Matters (Annex to the Toggle the table of contents Circulaire of the People's Commissariat of Justice of December 23, 1922, Part 207) provided that for the appearance to the court or pre-trial investigation body, forensic experts should not receive any remuneration, since according to Art. 78 of the then Code of Labor Laws, they set the average earnings "at the place of work or position"²³.

The following year, the People's Commissariat of Justice of the Ukrainian SSR approved the regulation of forensic science offices²⁴ (hereinafter referred to as *Regulation of 1923*) and the Instruction on the activities of scientific forensic science offices. Instructions on the activities of scientific and forensic examination offices. In order to implement the functions of the SFEO, special sections were established (chemical and physicochemical research, forensic, macro- and microscopic research, identification of a person: dactyloscopic,

19 Комаха В. О. О.р. cit. С. 325.

20 Положение о судостроительстве УССР : утв. Всеукр. Центр. Исполн. Комитет. 16.12.1922 г. Изд.-е офиц. Харьков, 1923. 16 с.

21 Уголовно-процессуальный кодекс УССР : утв. ВЦИК 13.09.1922 г. Харьков, 1922. 60 с.

22 Ibid.

23 Інструкція про порядок винагороди свідків та інших осіб, що викликаються по кримінальних справах до судових місць та до слідчих органів : дод. до обіжника Нарком'юсту від 23.12.1922 р., ч. 207. Бюлетень Народнього Комісаріату Юстиції УСРР. 27.12.1922. Ч. 20. С. 165.

24 Положення про кабінети науково-судової експертизи : затв. Постановою РНК від 10.07.1923 р. (зі змін. та доп.). URL: https://ips.ligazakon.net/document/view/kp230010?an=2&ed=1925_04_25 (date accessed: 06.03.2023).

poroscopic, anthropometric, etc.), and in the Kharkiv office, there was also a section for body research a person ²⁵.

According to Art. 2-4 of the Regulations of 1923, the Head of the office, his assistants and technical staff belonged to the personnel of the SFEO; the manager and his assistants were appointed and dismissed by order of the People's Commissariat, the rest of the employees — on the basis of the order of the manager; SFEO was maintained at the expense of the People's Commissariat of Justice, reported to the prosecutor's office, and general management of SFEO activities on the ground was carried out by provincial prosecutors ²⁶.

Almost 100 years ago, on November 1, 1923, SFEO in Kharkiv joined the network of forensic expert institutions in Ukraine. Its founder and leader was the legendary Ukrainian forensic physician, outstanding criminal expert and scientist M. Bokarius. The office was first organized at the Department of Forensic Medicine of the Kharkiv Medical Institute ²⁷.

The work of SFEO in Ukraine was managed by the People's Commissariat of the USSR, issuing circulars and instructions on improving the organization and conducting forensic examinations. For example, in paragraph 4 of the circular dated February 28, 1925 "On the elimination of errors that inhibit the work of the Scientific and Forensic Examination Office" it is noted that "when sending material evidence to the Offices

for examination, their significance or use in the case and the circumstances of the case are not submitted, which makes it difficult to carry out the examination" ²⁸.

It should be noted that the SFEO carried out expert research in criminal cases free of charge, and in civil cases - in accordance with the Fee for research carried out by scientific and forensic examination offices, approved by a joint resolution of the People's Commissariat of Justice and the People's Commissariat of Finance dated September 18, 1925, for example:

"B. Documents and banknotes examination, i.e. determination of their forgery by various persons, restoration of scraped, etched text, determination of the time when the document was written, etc.

1. Examination of a single document without restoration of scraped, etched, or even invisible text..... 10 KRB

<...>

C. Research of a person identification on the identification of crime instruments research at the crime scene.

<...>

4. Identification of traces of hands, feet, teeth, etc., of one person, as well as by photos..... 10 KRB

Identification of the same object by traces, photographic maps of other persons, for each identification..... 5 KRB" ²⁹.

25 Головченко Л. М., Лозовий А. І., Сімакова-Єфремян Е. Б. та ін. *Op. cit.* С. 15—16. URL: <https://expertize-journal.org.ua/attachments/article/924/ose.pdf> (date accessed: 06.03.2023).

26 Положення про кабінети науково-судової експертизи URL: https://ips.ligazakon.net/document/view/kp230010?an=2&ed=1925_04_25 (date accessed: 06.03.2023).

27 Пам'яті Заслуженого професора Миколи Сергійовича Бокаріуса. С. 6.

28 Про усунення хиб, що гальмують працю Кабінетів Науково-Судової Експертизи : об'єдник Нарком'юсту від 28.02.1925 р., ч. 34. *Бюлетень Народнього Комісаріату Юстиції УСРР*. 23.06.1925. Ч. 19. С. 148.

29 Такси оплати досліджень, що їх виконують кабінети науково-судової експертизи : Постанова Нарком'юсту й Наркомфіну від 18.09.1925 р. *Бюлетень Народнього Комісаріату Юстиції УСРР*. 22.10.1925 р. Ч. 55. С. 450—451.

In 1925, these SFEOs were transformed into institutes of scientific and forensic examination (hereinafter referred to as ISFE) in Kharkiv, Kyiv and Odesa. Their organizational and legal status, functions, structure and order of organization of forensic examination and scientific activities were regulated by the Regulation on the Judicial System of the Ukrainian SSR dated October 23, 1925, in Art. 12 of which it is stated: “In order to conduct various scientific and technical studies and provide expert opinions regarding court cases, as well as to conduct scientific works and experimental studies regarding the issues of criminal technology and the methodology of investigating crimes and investigating the identity of a offender in the cities of Kharkiv, Kyiv and Odesa are institutes of scientific and forensic examination, the area of their activity is determined by the instruction of the People’s Commissariat of Justice”³⁰.

It should be noted that the Heads of the ISFE in Ukraine constantly confirmed their scientific authority with their scientific developments (remember at least the fundamental work by M. Makarenko “Techniques for the investigation of crimes: a practical guide for judicial officers” (1925)³¹). The development of science in ISFE was also facilitated by entrusting them with the functions of scientific and methodological support of forensic examination in Ukraine. This made it possible to plan and coordinate relevant scientific research.

In 1926, on the initiative of M. Bokarius, Kharkiv ISFE launched one of the first specialized scientific periodicals in Ukraine — “Archives of Criminology and Forensic Sciences”. By Order of the People’s Commissariat

of Justice of the Ukrainian SSR dated June, 2, 1927, the publication is defined as the “permanent scientific publishing body of the institute of forensic science” (p. 52)³².

“Archives of Criminology and Forensic Sciences” contained scientific articles by both domestic and foreign forensic scientists - from Belgium, Bulgaria, Spain, Italy, Germany, Finland and France³³. In 1926-1927, 5 issues of the magazine were published. In a relatively short time, this periodical has established itself as an important platform for professional discourse on the theory and practice of criminology, criminalistics, forensic examination, and forensic medicine.

The organization and conduct of forensic examinations (respectively, the legal regulation of forensic expert activity of ISFE in Ukraine) were constantly improved. In particular, on July 12, 1926, M. Mykhailuk, Deputy People’s Commissariat of Justice and Prosecutor General of the Republic (repressed in 1937) issued a circular “In what cases and in what order are objects of research sent to forensic institutes for additional or repeated examination in of criminal cases (To all judges, prosecutor’s offices, investigations and institutes of scientific and forensic examination)”, which referred to the negative practice of additional research, when the pre-trial investigation authorities repeatedly applied for the conclusions of experts - or to the same ISFE (in the case of obtaining new materials of the pre-trial investigation), or to the other (in case of doubts about the previous conclusion) according to the so-called *control examination*: this practice “caused unwanted

30 Положення про Судустрой УССР : Постанова ВЦВК від 23.10.1925 р. (зі змін. та доп.). URL: https://ips.ligazakon.net/document/view/kp250018?an=0&ed=2022_04_21 (date accessed: 06.03.2023).

31 Макаренко Н. П. Опр. cit. 164 с.

32 Інститутам науково-судової експертизи : наказ Нарком’юсту УССР від 02.06.1927 р. *Бюлетень Народнього Комісаріату Юстиції УССР*. 1927. № 25–26. Арт. 97.

33 Кабінет-музей видатного судового медика ... С. 16.

complications for the institutes”³⁴. This document emphasizes the need for court and investigative bodies to properly prepare an application to ISFE for conducting an examination (Art. 2), the appropriateness of a second examination (to confirm or verify the conclusions of the first) only in the event that the first examination is recognized as “not sufficiently clear, or uncertain, as well as when the findings of the examination clearly contradict the circumstances of the case” (Art. 5), and investigative bodies are also prohibited from “simultaneously sending requests for the examination to different institutes of SFE”³⁵. Some of the issues raised in the aforementioned circular of the People’s Commissariat are relevant to the organization and conduct of the forensic examination to this day.

The order to institutes of scientific and forensic examination, issued by the People’s Commissariat of the USSR in 1927 (hereinafter referred to as *ISFE*), actually approved the rules for the existence of *ISFE* as part of this People’s Commissariat³⁶.

Adopted on July 20, 1927, the new Criminal Procedure Code of the USSR which was based on the “general principles of the criminal legislation of the Union of Soviet Socialist Republics”³⁷, regulated, in particular, the grounds for the appointment of a forensic examination (Art. 64), the prohibition to evade execution duties of a court expert (Art. 65), application of a statement about an expert (Art. 46), an expert’s right to remuneration for the performance of his du-

ties (Art. 66), questioning of an expert by an investigator and his appointment of additional or new examination (Art. 160, 167–172), clarification of the expert’s opinion at the court hearing (Art. 276), grounds for the court’s appointment of a new (repeated) examination (Art. 277), reopening of the case (in case the expert gives a “crooked” (false) opinion) etc.³⁸, therefore, comprehensively regulated the procedural status of the forensic expert(s) and the conclusion(s) drawn up by him/her.

The analysis of the Order’s provisions on *ISFE* makes it possible to reproduce the peculiarities of the legal status of the current *ISFE* in Ukraine. According to Art. 2 part I of this order *ISFE* was subordinated to the Department of the Judicial System and Care of the People’s Commissariat in the administrative and organizational sense, and operationally to the Department of the Prosecutor’s Office of the People’s Commissariat of Justice³⁹. Therefore, *ISFE* carried out, in fact, expert support of both pre-trial investigation and justice.

Regarding tasks of *ISFE*, Art. 19 of the Order on *ISFE* imposed on them the duty “to assist the court, prosecutor’s office and bodies of judicial and investigative authorities in establishing the crime and exposing the culprit by conducting scientific examinations and giving conclusions on certain issues that require the adaptation of scientific methods of research or special technical experience”⁴⁰. Therefore, from the moment scientific

34 За яких випадків та в якому порядку направляються об’єкти дослідження до інститутів науково-судової експертизи для додаткової або повторної експертизи в кримінальних справах (до всіх суддів, органів прокуратури, слідства та інститутів науково-судової експертизи) : обіжник Нарком’юсту від 12.07.1926 р. Бюлетень Народнього Комісаріату Юстиції УСРР. 1926. Ч. 26. Арт. 125.

35 Ibid.

36 Інститутам науково-судової експертизи

37 Wiczorek L. Op. cit. S. 55.

38 Кримінально-Процесуальний Кодекс УСРР від 20.07.1927 р. Вид. офіц. Харків, 1927. 123 с.

39 Інститутам науково-судової експертизи

40 Ibid.

and expert institutions were established in Ukraine, the Soviet authorities did not require them to conduct an independent and objective forensic examination, but to assist *“the court, the prosecutor’s office and the bodies of the judicial authority and the investigation in establishing the crime and exposing the culprit”*, because of which ISFE as non-independent and auxiliary subjects in the 1930s will turn into a component of a gigantic punitive and repressive system, and many talented scientists-experts and forensic experts-practitioners will become its innocent victims. Instead, the next task *“to conduct scientific works and experimental research on the issues of criminal technique and methodology of crime investigation, and in the section of criminal-psychological and psychopathological research and the identity of the burglar”*⁴¹ contributed not only to the development of forensic science in Ukraine, but also systematized its connection with criminalistics and criminology.

The implementation of these main forensic and scientific research tasks provided for the optimal structure of ISFE in the administrative and legal sense and ensured the ubiquity of their activities on the territory of Ukraine.

According to the circular of the People’s Commissariat of Justice *“On the distribution of districts between regional offices of scientific and forensic examination”*⁴², ISFE served the following regions of Ukraine (service areas could change in the event of re-examination):

- a) *Kharkiv region*: Kharkiv, Sumy, Izium, Kupiansk, Artemivsk, Luhansk, Mariupol, Starobilsk, Stalinsk, Poltava,

Kremenchuts’k, Dnipropetrovsk, Zaporizhzhia and Melitopol;

- b) *Kyiv region*: Kyiv, Berdychiv, Bila Tserkva, Cherkasy, Lubensk, Romensk, Pryluts’k, Chernihiv, Hlukhiv, Konotop, Nizhyn, Zhytomyr, Shepetivka and Korosten districts;

- c) *Odesa region*: Odesa, Mykolaiv, Khereson, Pershomaisk, Zinoviv, Umansk, Kryvyi Rih, Vinnytsia, Proskurivsk, Mohylivsk, Tulchynsk, Kamianets districts and Moldavian Autonomous SSR⁴³.

The ISFE was managed by directors (in the Order on the ISFE, the word “Director” is written with a capital letter), who were appointed and dismissed by the People’s Commissariat at the request of its own Department of Justice and Care (Art. 11). The Director became a key subject of the administrative and management, forensic expert and scientific research work of ISFE. In subsection 1 “Management of the Institute of Scientific-Forensic Examination” part II “Management of the Institute of Scientific-Forensic Examination, functions of sections and duties of their employees” was about the legal status, in particular the rights and duties of the Director of ISFE. The principal duty of the Director is to *“generally manage the activities of the SFE Institute, communicate on behalf of the Institute with all institutions and individuals, charge it with loans and conduct reporting on the affairs and funds of the Institute”* (Art. 59)⁴⁴.

The leadership of ISFE also included the Deputy Director (Articles 61–62) and the Academic Secretary (Articles 63–64). The first *“performed the duties of*

41 Інститутам науково-судової експертизи

42 Про розподіл округ між крайовими кабінетами науково-судової експертизи : об’їзник Нарком’юсту з 25.08.1925 р., ч. 129. *Бюлетень Народнього Комісаріату Юстиції УСРР*. 1925. Ч. 46. Арт. 67.

43 Інститутам науково-судової експертизи

44 Ibid.

the Director of the SFE Institute in all cases when the Director is not present”, and the second “systematized all the work of the SFE Institute and compiled reports on its activities”⁴⁵.

According to Art. 5 of Order on ISFE included sections (chemical and physico-chemical experiments; biological experiments; identification of a person; forensic medical experiments; criminal-psychological and psychopathological experiments)⁴⁶, the Heads of which were appointed and dismissed by the People’s Commissariat at the request of the Director ISFE (sections of ISFE should be distinguished from laboratories, museums, and other divisions, which will be discussed later).

In order to carry out forensic expert work, at the request of the Director of ISFE, the People’s Commissariat of the USSR established auxiliary institutions at ISFE: for example, a library and laboratories (forensic-chemical, physical, photographic, serum, etc.), an X-ray room and a room for experimental and biological research, artistic dummy workshop, etc. (Art. 7)⁴⁷.

ISFE offices provided record keeping, document management, and archiving and reported to the Deputy Director. All ISFEs operated museums, the collections of which were used to gain knowledge about the methods of committing crimes and their investigation. All ISFE employees (except the Deputy and Heads of sections) were appointed and dismissed directly by the Director.

The relative organizational and managerial autonomy of ISFE in Kharkiv, Odesa and Kyiv contributed to the choice by the Directors of these institutions of priority areas of scientific research and forensic expert activity, as well as the formation of unique scientific and expert teams.

Conclusions

It is obvious that the period from 1922 to 1929 was marked, on the one hand, by the accession of Ukraine to the USSR and the introduction of the Soviet legislative system, and on the other, by a certain liberalization of economic relations during the NEP, the involvement of experienced scientists to work in the bodies state power and scientific institutions, the introduction of the Ukrainian language into the system of the People’s Commissariat of Justice, and generally had a positive effect on the genesis of forensic examination and the formation of scientific and expert institutions on the territory of Ukraine.

The above-described administrative and legal status of ISFE in Kharkiv, Kyiv and Odesa operated until the Second World War. He ensured the rational autonomy of ISFE until the early 1930s when the Soviet authorities began to actively replenish and/or replace the leadership of ISFE with representatives of the party nomenclature.

The achievements of such Ukrainian scientists-experts as M. Bokarius, M. Makarenko, S. Potapov, etc., whose achievements in the field of theory and practice of forensic examination were used not only in the USSR, but also had a positive effect on the development of domestic forensic expert activity in Western Europe, Asia and both Americas. The exchange of experience of the world forensic expert community in the columns of Ukrainian specialized publications, in particular in the journal “Archives of Criminology and Forensic Sciences”, which was published under the editorship of M. Bokarius, deserves special attention.

During 1922–1929, domestic schools of forensic examinations were formed

45 Інститутам науково-судової експертизи ...

46 Ibid.

47 Ibid.

(in particular, the Kharkiv school of M. Bokarius); a community of highly professional forensic experts was formed and a high-quality system of their training was developed; new types of forensic examination were introduced and the methods of their conduct were scientifically substantiated; the publication of fundamental scientific works on the issues of forensic examination and criminology is organized; In Kharkiv, a specialized and authoritative journal “Archives of Criminology and Forensic Science” was launched. Therefore, it can be stated that even within the former USSR, domestic forensic examination in the 1920s developed independently and formed at least three powerful schools of forensic examination - Kharkiv, Odesa, and Kyiv.

Генезис інститутів науково-судової експертизи в Харкові, Києві й Одесі в 1922–1929-му роках: історико-правовий аспект

Владислав Федоренко, Лешек Вечорек, Ігор Гавловський

Розглянуто генезис судової експертизи в Україні напередодні Першої світової війни та її подальшу інституціоналізацію в 1920-ті рр. Досліджено передумови започаткування кабінетів науково-судової експертизи в Києві, Одесі та Харкові за ініціативою, зокрема, легендарного судового медика й науковця-криміналіста Миколи Бокаріуса. Проаналізовано нормативно-правові акти з питань організації та проведення судово-експертної роботи, правовий статус інститутів науково-судової експертизи Народного комісаріату юстиції Української СРР, їхні завдання, структуру й порядок формування. Обґрунтовано визначальну роль у генезисі судової експертизи в Україні в 1920-ті рр. вітчизняних учених-криміналістів

М. Бокаріуса, М. Макаренка, С. Потапова, В. Фаворського та інших, які не лише заклали підвалини різних видів судової експертизи для забезпечення потреб судів і органів досудового слідства, а й сформували науково-методологічні та методичні засади судово-експертної діяльності в Україні. Доведено, що вже в 1920-ті рр. в Україні сформовано вітчизняні школи судової експертології (зокрема, харківську школу М. Бокаріуса); утворено спільноту високопрофесійних судових експертів і розроблено якісну систему їх підготовки; запроваджено нові види судових експертиз і науково обґрунтовано методики їх проведення; організовано видання фундаментальних наукових праць з питань судової експертизи та криміналістики; у Харкові започатковано спеціалізований і авторитетний у тогочасному світі часопис «Архів кримінології та судової медицини». У дослідженні застосовано загальнонаукові методи: аналіз, синтез, аналогію, систематизацію та узагальнення.

Ключові слова: *судова експертиза; генезис судової експертизи в Україні; кабінет науково-судової експертизи; інститут науково-судової експертизи; Харківський інститут науково-судової експертизи; Микола Бокаріус.*

Funding

This research did not receive any specific grant from funding agencies in the public, commercial, or not-for-profit sectors.

Disclaimer

The funders had no role in the study design, data collection and analysis, decision to publish, or preparation of the manuscript.

Contributors

The authors contributed solely to the intellectual discussion underlying this paper, case-law exploration, writing and editing, and accept responsibility for the content and interpretation.

Declaration of Competing Interest

The authors declare that they have no conflict of interest.

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